

PROCEDURES FOR NOISE VIOLATION ENFORCEMENT

ENFORCEMENT AGENCY AND AUTHORITY

The principal enforcement agency of the City will be the Code Compliance Division of the Neighborhood Services Department. As needed, the Code Compliance Division will be supported and assisted by the Police Department on a requested basis in the enforcement of the principal means of noise control which is Miami-Dade County Code Section 21-28.

ENFORCEMENT EXPECTATIONS

At the time of complaint response and/or a proactive visit by a Code Enforcement Official immediate compliance on site is expected and a Notice of Violation shall be issued by the Code Enforcement Official.

VIOLATION ENFORCEMENT PROCEDURE

In any consecutive ninety (90) day period, any business or property owner which is issued three (3) Notices of Violation will, upon issuance of the third notice of violation, be immediately referred to the Special Master for a hearing and imposition of an appropriate fine as determined by the Special Master. At the time of appearance before the Special Master, all three Notices of Violation will be presented for adjudication before the Special Master and a request for a judgment will be made on behalf of the Administration for each of the three Notices of Violation. The ninety (90) day period of time will commence for any business or property owner at the instance of a first Notice of Violation. If there is a second Notice of Violation issued to a business or property owner within a seven (7) day period, at any time during noise violation enforcement actions, a Notice of Violation will be issued by a Code Enforcement Officer and an arrest will be made by the Police Department pursuant to Section 21-28 of the Miami-Dade County Code.

In the event that a continuance for a hearing before the Special Master is granted, concurrent with the continuance the Special Master shall enter an order directing the business or property owner in question to take all necessary actions, which may include the cessation of the noise producing activity, to mitigate the noise at the property during such continuance and until such time as the matter is heard by the Special Master. Failure of a business or property owner to abide by the terms of the order imposed by the Special Master will be cause for immediate suspension of the business or property owner's occupational license, pending a formal hearing by the City Manager or his designee.

In the ninety (90) day period following issuance of the third notice of violation, any business or property owner that is issued a fourth notice of violation shall immediately be noticed for an Occupational License suspension and or revocation hearing which shall be duly noticed and adjudicated by the City Manager's designee. The Occupational License suspension and or revocation hearing process shall be commenced immediately upon issuance of the fourth notice of violation whether or not the matter has been heard before the Special Master.

In the 90 day period following a fourth Notice of Violation, any business or property owner which is issued a fifth Notice of Violation will immediately have their Occupational License suspended pending a suspension and/or revocation hearing by the City Manager's designee who shall enter judgment in such case.

After a first Notice of Violation to any business or property owner is issued, in the event a third Notice of Violation is not issued within the ninety (90) day time period, the ninety (90) day time period shall run from the second violation if such is issued. The effect of this provision is that there will be a rolling or perpetual ninety (90) day time line from the time of a last or most recent Notice of Violation issued to any business or property owner.

Notwithstanding any of the provisions herein noted, the Administration and the Code Enforcement Division retain the right to alter the enforcement pattern or procedure to address specific situations or cases that either due to their egregious nature or repetitive nature requires different approaches or more stringent enforcement than herein noted. In the exercise of enforcement procedures other than as stipulated in this policy, The City Manger reserves the right to proceed directly to an immediate occupational license suspension, the initiation of an occupational license suspension or revocation hearing or arrest as facts in any specific situation may warrant.

SPECIAL MASTER APPEARANCES

The Office of the City Clerk supported by the appropriate enforcement agencies shall make any Special Master hearing a case aware of enforcement actions undertaken by other divisions of the City, which shall include but not be limited to the Fire Department and Building Inspection Department. This coordination of information will allow the respective Special Master to be aware of all enforcement actions undertaken against a specific property in the community even though they may have been heard by a different Special Master at a different time. This procedure will allow the current Special Master a full view or picture of the enforcement activity associated with any specific property and to render judgments based on the totality of enforcement actions for any subject property.